

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10688 of 1998

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

-----

RAJNIKANT @ RAJU KANTILAL PARMAR

Versus

COMMISSIONER OF POLICE

-----

Appearance:

MR JK PARMAR for Petitioner

MS HANSABEN PUNANI AGP for Respondent No. 1, 2, 3

-----

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 09/08/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

2. The petitioner challenges the order of preventive detention dated 10th November, 1998 made by the

Commissioner of Police, Ahmedabad City under the powers conferred upon him under Sub-section 1 of Section 3 of the Gujarat Prevention of Anti-Social Activities Act, 1985 [hereinafter referred to as , 'the Act'].

3. The petitioner is alleged to be a 'bootlegger' within the meaning of Section 2 (b) of the Act and his activities are found to be prejudicial to the maintenance of 'public order'. As many as 5 offences punishable under the Bombay Prohibition Act have been registered against the petitioner, two of which are pending trial and the remaining three are pending investigation. Besides, two persons, on assurance of anonymity, have given statements in respect of the anti-social activities of the petitioner and its adverse effect on the 'public order'.

4. The order of detention has been challenged on the grounds : (a) the names and other particulars of the witnesses have wrongly been withheld. The contention is recorded with a view to rejecting the same and (b) the reports of the Chemical examination of the liquor seized from the petitioner have not been furnished to the petitioner. Thereby, the petitioner is deprived of his constitutional right of making an effective representation. It is not disputed that the reports of the chemical examination of the liquor seized from the petitioner have not been furnished to the petitioner alongwith the grounds of detention nor it is contended that such reports were not available at the time the subjective satisfaction was recorded by the detaining authority nor it is contended that the reports with regard to the cases pending trial were furnished to the petitioner alongwith the chargesheet. In the matter of Ranvirsinh Kalyansinh [Special Civil Application No. 7490 of 1998 :: Decided on 12th July, 1999], I have taken a view that the reports of the chemical examination are vital documents and ought to be furnished to the detenu alongwith the grounds of detention. In the present case, the same having not been done, the petitioner's constitutional right to make an effective representation has been infringed.

5. The petition is, therefore, allowed. The order dated 10th November, 1998; Annexure-A to the petition, is quashed and set-aside. Rule is made absolute. The petitioner, unless is required to be detained in some other case, be released forthwith.

\*\*\*\*\*

Prakash\*